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DEPARTMENT OF LABOR OFFICE OF WORKERS' COMPENSATION

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RULE

DEPARTMENT OF LABOR OFFICE OF WORKERS' COMPENSATION

Title 40 Labor and Employment Part I. Workers' Compensation Administration

Chapter 17. Fiscal Responsibility Unit

§1701. Financial Compliance

Every employer subject to the jurisdiction of the Louisiana Workers' Compensation Act shall file with the Office of Workers' Compensation proof of its compliance with the Workers' Compensation insurance provision of the Act La. R.S. 23:1168. A notice from the insurer, on a form developed by the Director, certifying compliance will be accepted as proof. The form must be received within thirty (30) days of the policy's effective date.

AUTHORITY NOTE: Promulgated in accordance R.S. 23:1168 and Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1703. Termination of Coverage by Insurance Carriers; Employer to obtain New Coverage

A. Any insurance carrier desiring to cancel or terminate an insurance policy before the expiration date stated in the policy shall be required to give twenty (20) days prior notice thereof in writing to the Office of Workers' Compensation, the employer, and the Louisiana Commissioner of Insurance.

B. The employer whose policy has been cancelled or terminated shall, on or before the 20th day after receipt of the notice of cancellation or termination, file evidence with the Office of Workers' Compensation of having obtained other coverage in accordance with the Act. Failure on the part of the employer to file such evidence within 20 days shall be considered by the Office of Workers' Compensation as prima facie evidence of violation and subject the employer to the penalties prescribed under La. R.S. 23:1170 of the Act. (Effective July 1, 1989)

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168 and Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (August 1991).

§1705. Definitions

A. When used in these rules, the following words or terms shall have the meaning as described in this section.

1. Certified Audit - an audit upon which the auditor expresses his professional opinion that the accompanying statement presents fairly the financial position of the Self-insurer or fund in conformity with generally accepted accounting principles consistently applied.

2. Conditional Reserves - acceptable assets equal to the security deposit requirement plus any additional contingent reserves established by the trustees or required by the Office.

3. Contingent Liability - the amount that a Self-insurer's fund may be obliged to pay in excess of a given fund year's standard premium collected or on hand. This liability is considered funded if a security deposit equal to the total amount of the contingent liability has been posted. This liability is considered unfunded if a surety bond has been posted equal to all or a portion of the total amount of the contingent liability.

4. Current Ratio - the ratio of current assets to current liabilities as shown in the most recent financial statement.

5. Manual Premium - premium determined by multiplying the payroll (segregated into the proper workers' compensation job classifications) times the appropriate manual premium rates, or premiums tabulated on unspent payrolls, or limited payrolls as promulgated by the National Council on Compensation Insurance.

6. Loss Development - the change in incurred loss from one point in time to another.

7. Loss Fund - the retention of liability for an Individual Self-Insurer under the terms of an aggregate excess contract. In the absence of an aggregate excess policy, it is the amount of money allocated to pay claims.

8. Net Safety Factor - any amount needed in a given fund year in addition to current loss reserves to fund future loss development.

9. Service Company - a business which has met all the requirements of Section 1713 of these rules and which has obtained Office approval to contract with Self-insurers for the purpose of providing all services necessary to plan and maintain an approved Self-insurer program. The term "Service Agent" is synonymous with the term "Service Company" as used in these rules.

10. Surplus - all other assets a fund may have on hand in excess of all loss reserves, actual and contingent liabilities and net safety factors in all fund years.

11. Office - the Office of Workers' Compensation Administration.

12. Working Capital or Net Current Assets - current assets less current liabilities.

13. Commutation - A substitution, exchange or interchange of one security for another.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1291 (B)(7) a(8), 1168 Act 938 or 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1707. Conditions for Obtaining Certificate of Self-Insurance

The Director shall prescribe aggregate and specific excess insurance coverage and/or surety bonds or the deposit of other security as a condition of obtaining a certificate of self-insurance.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1291 (B)(7) a(8), 1168 Act 938 or 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1709. Acceptable Securities or Surety

A. The securities acceptable to the Office of Workers' Compensation Administration as a security deposit shall be U. S. Government Bonds; Irrevocable Letters of Credit issued by a federal or state bank pre-approved by the Office of Workers' Compensation; Surety Bonds in a form prescribed by the Office which are issued by any corporate surety which meets the qualifications prescribed in Paragraph B of this section; and other forms of security deemed acceptable by the Director of the Office of Workers' Compensation. Self-insurers must have all funded securities made payable to the Louisiana Office of Workers' Compensation.

B. Any corporate surety, to be eligible for writing self-insurers' bonds in the State of Louisiana, shall be an admitted or approved carrier by the Insurance Commissioner of the State of Louisiana to transact such a business in the State, shall have its latest financial statement on file with the Insurance Commissioner and the Office of Workers' Compensation Administration; and shall at all times show assets, including surplus to policyholders, at least equal to the latest Insurance Commission requirements for admission of a new company to do business in the State. The policyholders and financial ratings, as shown in the most current issue of Best's Key Rating Guide, Property -Casualty, shall not

be less than "B" and "IV", respectively. In the event a company is not rated by Best's, a corporate surety may be approved at the discretion of the Office.

C. All such securities shall be filed with the Office of Workers' Compensation for deposit under custody receipt. The Office shall be authorized to sell and/or collect, in the case of default of the employer or group, such amount thereof as shall yield sufficient funds to pay compensation liabilities. The Office shall likewise be authorized to bring suit upon any surety bond so posted, to procure prompt payment of compensation liabilities. Interest accruing on any negotiable securities so deposited shall be collected and transmitted to the depositor, provided he is not in default in the payment of compensation or the annual premium tax. All deposits shall remain in the custody of the Office until such time as the workers' compensation claims, which the deposits secure, have been fully satisfied.

D. Any securities held by the Office may be exchanged or replaced by the depositor with other securities of like nature and amount. Any surety bond may be exchanged or replaced with another surety bond, provided the required thirty (30) days notice of termination of liability is given to the Office. Whenever an employer discontinues business in the State or desires to terminate his status as a Self-insurer, or desires to replace securities with a surety bond, he shall so notify the Office and may recover the securities deposited with the Office upon posting in lieu thereof a special release bond issued by a corporate surety in an amount equal to the total value of such securities. The special release bond shall cover all existing liabilities under the Workers' Compensation Act and shall remain in force in accordance with the prescriptive and preemptive period provided at R.S. 23:1209, and until such time, to be determined by the Office, that all obligations under the Act have fully discharged.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1711. Filing of Reports - Penalties

A. Each Individual Self-insurer shall file annual statements of financial condition with the Office of Workers' Compensation in a form acceptable to the Office of Workers' Compensation on or before May 1 of each year. Except that fiscal year end filers shall file annual statements of financial condition four (4) months after fiscal year end. These statements must be prepared by a Certified Public Accountant and must be certified audits, except that an Individual Self-Insurer may be allowed to submit another type of statement

acceptable to the Office of Workers' Compensation. An additional security deposit or surety bond may be required in the absence of a certified audit.

B. Summary Loss Data will be filed with the Office of Workers' Compensation by each Individual Self-insurer on or before February 1 of each year. This report will include but not be limited to the name of the employer, name of the injured employee, claim number, date of accident, nature of injury, amounts paid on the claim for indemnity or medical and outstanding reserves, if any. This report will cover all incurred losses for the prior year as well as any pending claims where any type payment is made or reserve is pending.

C. In addition to the above required annual reports, the Office of Workers' Compensation may require interim financial statements, summary loss data, payroll audits, or such other reports or statements upon reasonable notice.

D. This rule places the responsibility on the employers, groups and service companies to perform their prescribed duties and responsibilities without prompting from the Office. Failure or refusal of any self-insurer to file the required report with the Office within the prescribed time period shall subject the self-insurer to a civil penalty in such amount as the Office may prescribe, not to exceed \$100 per infraction per day, and may be sufficient cause for the revocation of the Self-insurer privilege. Failure to pay such penalty within thirty (30) days of the notification may be considered additional cause for revocation of the self-insurer privilege.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1713. Contract of Excess Insurance

A. Aggregate and specific excess insurance with liability limits and retention amounts acceptable to the Office of Workers' Compensation shall be required as a condition of approval of any Individual Self-insurer as hereinafter provided:

1. The retention of specific excess policies shall be no more than \$250,000 or one percent (1%) of the self-insurer's net worth, whichever is greater. The maximum retention so calculated shall be rounded to the nearest \$50,000. Acceptable retention levels, subject to the above maximum, shall be determined by the Office for each self-insurer. Such acceptable retention shall be based on an evaluation of the self-insurer's financial condition and exposure to loss.

2. In cases where the upper limit of a corporation's excess insurance is not statutory, the Office of Workers' Compensation will require that the amount be at least the greater of the average incurred workers' compensation losses for the last three years or 5 million dollars.

B. No contract or policy of excess insurance shall be recognized by the Office in considering the ability of an applicant to fulfill its financial obligation under the Workers' Compensation Act unless such contract or policy:

1. Is issued by a recognized, admitted or approved casualty insurance company with a financial rating as shown in the most current issue of Best's Key Rating Guide, Property-Casualty of not less than "B" and "IV";

2. Is not cancelable except upon twenty (20) days written notice by registered or certified mail to the other party to the policy and the Louisiana Office of Workers' Compensation. The required notice is ten (10) days if the cancellation is for non-payment of policy premium; and

3. Is renewable at the expiration of the policy period unless written notice by registered or certified mail is given to the other party to the policy and the Louisiana Office of Workers' Compensation, twenty (20) days prior to such expiration by the party desiring to cancel or not to renew the policy. The required notice or non-renewal is ten (10) days if the non-renewal is for non-payment of policy premium.

C. Additionally, a contract or policy of excess insurance containing any commutation clause shall only be recognized by the Office in considering the ability of an applicant to fulfill its financial obligation under the workers' compensation act where the Office is satisfied that sufficient security is provided to assure future payments of compensation to employee(s) entitled thereto.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1715. Servicing for Self-Insurer; Qualifications for Service Companies.

A. Each Individual Self-insurer, as a condition of approval to Self-insure, shall be required to provide proof of compliance with the provisions of this section as follows:

1. It shall be the sole responsibility of each Individual Self-insurer to provide for qualified persons to service its program in the areas of claims adjusting, underwriting, safety engineering and loss control. Should the Individual Self-insurer be unable or unwilling to provide any or all of these services through the use of its own employees, then it shall contract with

outside agencies with established qualifications, as evidenced by their official certificates of approval issued by this Office, to provide these services.

2. In the case where an Individual Self-insurer elects to contract with an approved service company, the Office of Workers' Compensation may, at its discretion, choose to use the service company as an intermediary in its dealings with the employer. In the case where no service company is used, the Office will deal with the employer only.

B. Any firm desiring to become qualified as a service company for Individual Self-Insurers shall make application to the Office on such forms as may be prescribed and the application must be approved before any contract for servicing shall be recognized as fulfilling paragraph A of this section.

C. Any firm making application to qualify as a service company shall provide proof that it meets the following conditions before approval may be granted.

1. The owners of the firm, including members of a co-partnership, and the officers of the corporation, shall be persons of good moral character with reputations for honesty and fair dealings.

2. That the firm has a sufficient number of experienced and qualified claims personnel, including at least one resident adjuster with check or draft authority.

3. That the firm has a sufficient number of experienced and qualified personnel in the areas of loss control and safety engineering.

4. That the firm has a sufficient number of experienced and qualified personnel in the area of underwriting. In this context, underwriting includes, but is not limited to, the overall planning and coordinating of a Self-insurer program, the ability to advise or assist in the procurement of bonds and excess insurance, the ability to provide summary data regarding the Self-insurer's costs of accidents, including the frequency and distribution by type and cause, and the skill to make recommendations to the Self-insurer regarding the correction of any deficiencies that arise in the Self-insurer program.

5. The application for the privilege of being a Service Company, as defined herein, shall be accompanied by a remittance in the amount of \$200.00, payable to the Louisiana Office of Workers' Compensation. This fee will not be refunded, regardless of the disposition of the application.

D. In support of its application the firm shall submit summary information concerning its organization and resumes on all employees with administrative or professional capacity sufficient to establish compliance with paragraph C of this section.

E. Upon compliance to the satisfaction of the Office with the above provisions, a certificate of approval as a recognized and authorized service organization shall be issued to the applicant. Failure to comply with any of the foregoing rules or any order of the Office within the time prescribed shall be considered good cause for withdrawal of the certificate of approval. The Office shall give prior written notice of such withdrawal. The service company shall

have fifteen (15) days from the date of mailing to request a hearing. Failure to request a hearing within the time prescribed shall result in the withdrawal becoming effective thirty (30) days from the date of mailing of the original notice. In no event shall the withdrawal of the certificate of approval be effective prior to the date that the hearing on the question is scheduled. Such notice shall be served personally or by certified or registered mail upon all interested parties.

F. Each service company shall file immediately upon entering into a contract or agreement for servicing, notice of this contract or agreement with the Office of Workers' Compensation Administration. It shall be the responsibility of the Individual Self-insurer to obtain the written permission of the Office of Workers' Compensation Administration before changing its method of fulfilling its servicing requirements from those which were previously approved by the Office.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1717. Revocation or Termination of the Self-Insurer Privilege

A. Failure to comply with any of the rules or with any order of the Office of Workers' Compensation Administration within the time prescribed may be considered good cause for revocation or termination of Self-insurer privilege, within the meaning of Louisiana Statutes. Non-compliance with the provisions of the Workers' Compensation Act, in particular those relating to time and method of compensation payments, the furnishing of medical treatment and filing of accident and compensation reports and failure to pay any assessment, may likewise be deemed good cause. The Office shall give written notice of such revocation or termination to the employer and/or his agent(s). The employer shall have fifteen (15) days from the date of mailing of the notice to request a hearing on the revocation or termination. Failure to request a hearing within the time prescribed shall result in the revocation or termination becoming effective thirty (30) days from the date of mailing of the original notice. In no event shall any revocation or termination become effective prior to the date that a hearing on the question is scheduled. Such notice shall be served personally or by registered mail upon all interested parties.

B. It will be necessary for a Self-insurer to notify the Office if the status of the Self-insurer is materially changed (Individual ownership to partnership or to corporation, merger, etc.) at which time, the new entity shall be required to qualify. In the event there is a change in majority ownership of

a Self-insurer, the Self-insurer privilege granted to an individual Self-insurer shall be at the discretion of the Office.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1719. Enforcement by Office of Workers' Compensation of Order of Compliance; Order of Denial; or Order of Termination of Self-Insured Status

If the Office of Workers' Compensation has probable cause to believe that an order denying or terminating Self-insurer status is being violated or that an employer who is approved or has been previously approved as a Self-insurer is liquidating or may be about to liquidate and distribute its assets to its stockholders or to its members without providing for its obligation as a Self-insurer to pay or arrange for the payment of compensation and benefits as prescribed for in the Act, the Office may cause an action to be filed in the Court of East Baton Rouge Parish or in the Parish in which such person does business to enjoin and restrain such person from engaging in such method, act or practice; in addition to the other penalties it may assess according to law.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168, 1169, 1170 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1721. Tenure of Authority

Certificates of Authority granting the privilege of being a Self-insurer for workers' compensation purposes shall expire on July 1 of each year or 2 (two) months after the annual report is due for fiscal year end filers. At the time of renewal, the Self-insurer must furnish or have on file with the Office, an acceptable financial statement for its current fiscal year and must fully comply with the law and the Rules of this Office. Certificates of Approval for Service Companies must be renewed on an annual basis. Any information submitted by an employer in its application to become a Self-insurer, or in its request for renewal of that authority, will be treated with strict confidence by the Office. Any information submitted by a service company in its application for approval or in its request for renewal of that approval will be treated with strict

confidence by the Office except that the name, address, and status of an employer that is self-insured may be communicated effective September 1, 1991 pursuant to amendments to LSA-R.S. 23:1168.A.(4).

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1723. Individual Self-Insurer - Application

A. Each employer desiring to become a Self-insurer individually, as contemplated by Louisiana statutes, shall make application to the Office for such privilege on a form prescribed by the Office, and this application shall be filed with the Office at least sixty (60) days prior to the desired effective date. The application shall contain answers to all questions propounded and shall be under oath.

B. Before considering the application, the Office will require:

1. Financial statement of a current date showing a net worth of not less than Seven Hundred and Fifty Thousand Dollars (\$750,000.00) and a current ratio of more than 1.5 to 1 and a working capital of an amount establishing financial strength and liquidity of the business to pay normal compensation claims promptly. However, companies qualified to be self-insured prior to the implementation of these rules who do not meet the requirement of a net worth of \$750,000.00 may nonetheless qualify for continued certification upon a showing that they meet all other requirements of these rules and that they have been continually operating as an approved self insurer. The requirement for more than 1.5 to 1 current ratio may be waived in the case of a public utility or in those instances where generally recognized accounting principles peculiar to a particular industry make this requirement unreasonable. In no event shall the net worth be less than three (3) times the annual loss fund, or in the event that aggregate excess insurance is not maintained, then the net worth shall be at least three (3) times the Self-insurer's annual standard premium. Financial statements dated six (6) months or more prior to the date of application must be accompanied by an affidavit stating that there has been no material lessening of net worth nor significant deterioration of current ratio since the date of the statement.

An employer going through or recently acquired through a highly leveraged buy out is not eligible to Self-Insure until the company has a well established and acceptable financial capacity. Judgement of the company's financial capacity will be based upon financial ratio analysis. This type of

company must operate on an insured basis until the financial status is fully known.

2. In considering the financial strength and liquidity of the business to pay normal compensation claims, the Office will take into consideration contracts or policies of excess insurance in accordance with Section 1711.

The determination of a companies financial strength will also be based upon a financial ratio analysis and the trends in operating and net income. A number of successive years operating net losses experienced by a company may cause the Office of Workers' Compensation to deem that company unable to assume the responsibility of self-insuring.

3. In addition, a company must have been in business for at least 3 years unless they are part of an established operation that is able to guarantee the financial stability of the concern.

4. Each employer shall execute and file with the Office an agreement, which shall be part of his application, whereby he agrees (1) to fully discharge by cash payment all amounts required to be paid by the provisions of the Act, and (2) to deposit with the Office acceptable securities or corporate surety bond to secure guarantee of payment of compensation liabilities.

5. Each Individual Self-insurer shall satisfy the Office that it has complied with the provisions of Section 1713(A) before approval for Self-insurer status may be granted by the Office. In addition, the Office may require periodic proof that the Self-insurer is complying with these standards on a continuing basis.

6. The application for the privilege or the renewal of the privilege of being a Self-insurer shall be accompanied by a remittance in the amount of \$100, payable to the Louisiana Office of Workers' Compensation. This fee will not be refunded, regardless of the disposition of the application.

7. An investigation and study of the financial and other capabilities of the individual applicant to meet its' obligation under the Act will be conducted by the Self-insurer Department of the Office. The Administrator of the Self-insurer Department of the Office will submit an evaluation report to the Office, after which formal approval for Self-insurer status may be granted by the Office.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1725. Security Requirements

A. Pursuant to La. R.S. 23:1168, each individually Self-insured employer shall deposit with the Office acceptable securities or post a surety bond issued by a corporate surety authorized to do business in the State of Louisiana and qualified as herein provided or make such other provision as may be approved by the Office in such amount as may be determined by the Office in accordance with the following rules:

1. In every case where an application is favorably considered, the Office will then decide the amount of acceptable securities or surety bond which will be required; provided, however, that in no case shall the amount of securities or surety bond be less than the greater of:

- a. One Hundred Thousand Dollars (\$100,000.00); or
- b. The average workers' compensation losses incurred over the most recent three year period multiplied by 110%; or
- c. The total amount of unpaid workers' compensation reserves at the time of application multiplied by 110%.

A majority-owned subsidiary of a Parent Company, duly admitted as a Self-insurer, may not be required to post securities or surety bond, provided the Parent Company by resolution guarantees payment of the liabilities of the subsidiary.

2. The minimum excess insurance requirements that an Individually Self-insured employer shall maintain shall be determined by the Office.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1727. Forfeiture of Security

A. An injured worker or group of injured workers can apply to the Director for the payment of benefits pursuant to LA R.S. 23:1168(D) if a self-insured employer has failed to pay benefits for undisputed claims.

B. Upon default the Office shall deposit the proceeds from the security or the bond into an interest bearing account. The interest derived therefrom shall be used to offset the administration of claims. The office may thereafter contract for the administration of claims from the account.

C. In the event the Director pursuant to 23:1168(D) provides for pro rata distribution of security proceeds to claimants or issues an order or decision which may be adverse to a claimant, he may within 60 days of the order or decision appeal to the district courts of this state.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1729. Financial Classes, Security amounts, and Waiver of Security

A. Each self-insurer will be classified according to its net worth as shown on its most recent year-ended financial statement submitted to our office. The following classifications will be established and known as Financial Classes (FC):

1. An employer whose net worth is greater than or equal to Seven Hundred and Fifty Thousand (\$750,000.00) but less than Five Million (\$5,000,000.00) shall be in Financial Class I (FC I).

2. An employer whose net worth is greater than or equal to Five Million (\$5,000,000.00) but is less than Fifty Million (\$50,000,000.00), shall be in Financial Class II (FC II).

3. An employer whose net worth is greater than or equal to Fifty Million (\$50,000,000.00) but less than Two Hundred and Fifty Million (250,000,000.00), shall be in Financial Class III (FC III).

4. An employer whose net worth is greater than or equal to Two Hundred and Fifty Million (\$250,000,000.00), shall be in Financial Class IV (FC IV).

B. The bond or security deposit requirement may only be waived as follows:

1. In cases of private employers, the self-insurer or applicant must qualify for FC IV, submit a properly certified audit, and have a current debt/equity ratio that is below 3:1, or

2. If applicant is a municipality or other political subdivision, the applicant must have maintained a bond rating of not less than Baa (Moody's) on all outstanding bond issues and continuously maintained an unrestricted fund balance of not less than Five Million and 00/100 (\$5,000,000.00) Dollars.

C. The security required by the Office of Workers' Compensation will be the greater of One Hundred Thousand (\$100,000.00) or the average of the most recent three (3) years of workers' compensation losses incurred. In no event shall this calculated amount be less than the workers' compensation outstanding reserves. In the event that the open workers' compensation reserves are greater than the average workers' compensation losses incurred, the amount of the security required will be the amount of the open reserves.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991).

§1731. Appeals

A. A request for hearing pursuant to sections 1713(E) or 1715(A) or an application for appeal from an adverse discretionary decision made by the office may be made to the Director of The Office of Workers' Compensation by an applicant, self-insurer or service company.

B. Requests for hearing or applications for appeals must be in writing and filed within 30 days of the notice of the decision or, if no notice is given, within 30 days from becoming aware of or the date the aggrieved party should have been aware of the adverse decision. The appeal must be addressed to the Director of the Office of Workers' Compensation and mailed to: P. O. Box 94040 Baton Rouge, Louisiana 70804 or hand delivered to the office at 1001 North 23rd Street, Baton Rouge, Louisiana. Appeals may not be supplemented or amended after the lapse of 30 days. An appellant has the right to file a written appeal or have the appeal heard orally. Requests for an oral hearing must be made within the 30 day time period to file the appeal.

C. If no request for an oral hearing is made, then the appellant may submit documentation and/or written memorandum to support the appeal at least 15 days prior to the review of the appeal. Appellant will be notified at least 30 days prior to the date of the review by the Director or the appeal committee appointed by the Director. The Director or the appeal committee will review all the evidence submitted and render a decision.

D. If the appellant requests an oral hearing, then appellant will be given at least 30 days prior notice of the hearing. The Director may appoint a hearing officer to hear the appeal of the appellant. All hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act R.S. 49:955 et seq. On the day of the oral hearing appellant and appellee shall be prepared to start the hearing at the time specified in the notice of hearing. The hearing may be continued for good cause provided a written request for extension is received at the Office of Workers' Compensation at least seven days prior to the date of the hearing.

E. If after the review of the appeal committee or after a hearing held before the hearing officer or the Director a decision adverse to the appellant is made, then appellant within 30 days of the date the order or decision is signed may appeal this administrative decision to the district courts of this state.

AUTHORITY NOTES: Promulgated in accordance with R.S. 23:1168 Act 938 of 1988 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Employment and Training,
Office of Workers' Compensation, LR 17:959 (October 1991).